

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,

*Plaintiff,*

V.

SENEN POUSA, INVESTMENT  
INTELLIGENCE CORPORATION,  
*DBA* PROPHETMAX MANAGED FX,  
JOEL FRIANT, MICHAEL DILLARD, and  
ELEVATION GROUP, INC.,

*Defendants.*

Civil Action No. A-12-CV-0862-LY

**RECEIVER'S STATUS UPDATE AND NOTICE OF FULLY BRIEFED  
UNOPPOSED MOTIONS**

Comes now, Guy M. Hohmann, the Court-appointed Receiver in the above-referenced ProphetMax Receivership matter and the ancillary IB Capital matter and files this his Status Update and Notice of Fully Briefed Unopposed Motions.

## Riknik USD \$7.2 million judgment

On December 7, 2020, a district court in Slovakia issued an order recognizing the approximate USD \$7.2 million dollar judgment against Riknik. The order also appointed an enforcement agent. Once, the Slovakian court sends the order to the registered seat of Riknik, it then has fifteen (15) days to file an objection. During that time-frame, if no objection is filed, the bank will then wire transfer the funds to the enforcement agent who will in turn wire transfer the funds to the Receiver.

**Assignments from Neotex Advanced, Ltd. and Essadia Moutaouakkil**

As noted in the Receiver's October Status Report, counsel for Banque Populaire outlined a process for repatriating the approximate USD \$4.5 million which is on deposit in Morocco. The first step in the process was to have the assignment agreements re-executed in the Moroccan Consulate (in Lile, France in the case of Essadia Moutaouakkil and in either New York or Washington D.C in the case of the Receiver). Over the last few months and on multiple occasions, the Receiver or his representatives phoned and emailed representatives of the above referenced Moroccan Consulates. No response has been recognized or received. The most recent email was sent on January 25, 2021. If no response is received within the next ten (10) days, the Receiver will likely seek permission of the Court to employ an international collection agent to pursue repatriation, on a contingency fee basis.

**Status of Restoration Proceedings for Maverick**

The proceeding in the United Kingdom ("UK") has been abated until such time as this Court rules on the Receiver's Motion for Clarification, as discussed more fully below.

**Status of Dutch proceeding**

The Court of Appeal at the Hague on December 9, 2020, rejected the Receiver's Complaint against the settlement between the Dutch State and ING Bank. According to the Receiver's Dutch counsel there are significant findings in the Court's ruling that would aid the Receiver in any ensuing civil litigation against ING, if he is unable to resolve those claims in ongoing settlement discussions. The observations from the Receiver's Dutch counsel are noted below:

- In the judgments **a court for the first time holds** that ING committed a crime, holds that this was structural/systemic and very serious, holds that throughout the period 2010-2016 ING knew that it's Know Your Customer systems did not comply and consciously accepted the risk of facilitating illegal use of its bank accounts. **These considerations of the court will assist the investors in a civil action against ING, as it confirms that ING's breaches were wanton/conscious.**
- The court has not held that the investors do not have a claim against ING, but has actually held that this claim is too complex to bring before the criminal court and **has basically referred the matter to the civil court.**

#### **Settlement Discussions with ING Bank**

During December 2020 and January 2021, the Receiver, through his Dutch Counsel has been involved in settlement discussions with ING Bank. ING Bank has requested certain documents and information in order for the settlement dialogue to continue. The Receiver, with the assistance of the Dutch Public Prosecutor's Office and his U.S. counsel, has provided the requested documents and information. The Receiver expects the settlement communications with ING to continue and hopefully conclude within the next 60-90 days.

#### **Notice of Fully Briefed Unopposed Motions**

The following fully briefed unopposed motions are before the Court:

##### **Background on a pending draft Order before the Court:**

The Receiver submitted the Motion to Appoint the National Futures Association as Monitor [Dkt. #167] on March 27, 2020.

On April 22, 2020, the Court requested "... The parties shall submit to the court for approval a proposed agreed order granting the motion and appointing National Futures Association Monitor in this case by May 6, 2020..."

- On May 4, 2020 [Dkt. #175], the Receiver submitted the Agreed Order Granting Unopposed Motion to Appoint the National Futures Association As Monitor to Court

On May 8, 2020, the Receiver submitted [Dkt. #176] the Interim MOTION for Disbursement of Funds and [Dkt. #176-1] and the Receiver's Proposed Order for Approval of Interim Distribution Plan.

On May 18, 2020, the Receiver submitted [Dkt. #178] an Amended Proposed Order Amended Proposed Order Granting Receiver's Unopposed Motion for Approval of Interim Distribution Plan.

On July 22, 2020, The Court held a Status Conference requesting the Receiver submit to the Court a draft proposed order combining two previously submitted Orders into one combined Order:

1. [Dkt. #178] Amended Proposed Order re [Dkt. #176] Interim MOTION for Disbursement of Funds by Guy M. Hohmann
2. [Dkt. #175] Agreed Order Granting Unopposed Motion to Appoint The National Futures Association As Monitor was submitted to Court
  - On July 27, 2020, the Receiver submitted to the Court's Clerk via email a draft Amended Proposed Combined Agreed Order Granting Unopposed Motion To Appoint The National Futures Association as Monitor and For Approval of Interim Distribution Plan.

#### **Reinstatement Proceedings for IB Capital FX LLP**

On July 24, 2020, the Receiver submitted [Dkt. #184] Motion for Clarification.

**Background on Motion for Clarification:**

As noted in previous status reports, the Receiver's UK Counsel informed the Receiver the judge presiding over the reinstatement proceeding sought clarification from this Court as to the Receiver's appointment over the UK entity, IB Capital FX LLP (NZ). The court in the UK has abated its proceeding until such time as this Court rules on the Receiver's Motion for Clarification [Dkt. #184], asking the Court to find IB Capital FX LLP an affiliate of IB Capital FX (NZ) LLC.

**The following Motions for Disbursement of Funds remain pending:**

1. September 9, 2020, [Dkt. #190] - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, Paralegals and expenses occurred by the Receivership estate through August 1 – August 31, 2020.
2. October 13, 2020, [Dkt. #191] - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, UK Counsel, Paralegals and expenses occurred by the Receivership estate through September 1 – September 30, 2020.
3. November 13, 2020, [Dkt. #193] - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, UK Counsel, US Counsel and Paralegals through October 1 – October 31, 2020.
4. January 11, 2021 [Dkt. #194] - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, US Counsel and Paralegals through November 1 – December 31, 2020.

**CONCLUSION**

The next status report will be submitted to the Court on July 31, 2021. If significant developments occur in the interim, the Receiver will file a report before July 31, 2021.

Respectfully submitted,  
GUY HOHMANN

By: /s/ Guy Hohmann

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**RECEIVER FOR THE PROPHETMAX AND  
IB CAPITAL RECEIVERSHIP ESTATES**

**CERTIFICATE OF SERVICE**

On January 29, 2021, I electronically submitted the foregoing document with the Clerk of the Court of the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Guy Hohmann  
Guy Hohmann